



DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-908]

Barium Chloride from India: Initiation of Less-Than-Fair-Value Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable February 1, 2022.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Preston Cox; AD/CVD

Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S.

Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone:

(202) 482-2924 or (202) 482-5041, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On January 12, 2022, the Department of Commerce (Commerce) received an antidumping duty (AD) petition concerning imports of barium chloride from India, filed in proper form on behalf of Chemical Products Corporation (the petitioner), a domestic producer of barium chloride.¹ The Petition was accompanied by a countervailing duty (CVD) petition concerning imports of barium chloride from India.²

¹ See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties on Barium Chloride from India," dated January 12, 2022 (the Petition).

² *Id.*

On January 14 and 24, 2022, Commerce requested supplemental information pertaining to certain aspects of the Petition.³ The petitioner filed responses to these requests on January 19, 20, and 25, 2022.⁴

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of barium chloride from India are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the barium chloride industry in the United States. Consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested AD investigation.⁵

Period of Investigation

Because the Petition was filed on January 12, 2022, the period of investigation (POI) for this AD investigation is January 1, 2021, through December 31, 2021, pursuant to 19 CFR 351.204(b)(1).

Scope of the Investigation

³ See Commerce's Letters, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Barium Chloride from India: Supplemental Questions," dated January 14, 2022; and "Petition for the Imposition of Antidumping Duties on Imports of Barium Chloride from India: Supplemental Questions," dated January 14, 2022; see also Commerce's Memoranda, "Petition for the Imposition of Antidumping Duties on Imports of Barium Chloride from India: Phone Call with Counsel to the Petitioner," dated January 24, 2022; and "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Barium Chloride from India: Phone Call with Counsel to the Petitioner," dated January 24, 2022.

⁴ See Petitioner's Letters, "Barium Chloride from India: Response to Supplemental Questionnaire on Volume I of Petition (General Issues and Injury Information)," dated January 19, 2022 (General Issues Supplement); "Barium Chloride from India: Response to Supplemental Questionnaire on Volume II (AD) of Petition," dated January 20, 2022 (India AD Supplement); "Barium Chloride from India: Response to Supplemental Question on Volume I of Petition (General Issues and Injury Information)," dated January 25, 2022 (Revised Exhibit I-4); and "Barium Chloride from India: Response to Supplemental Question on Volume II of Petition (Antidumping Duties)," dated January 25, 2022 (Second India AD Supplement).

⁵ See *infra*, section on "Determination of Industry Support for the Petition."

The product covered by this investigation is barium chloride from India. For a full description of the scope of this investigation, *see* the appendix to this notice.

Comments on the Scope of the Investigation

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).⁶ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,⁷ all such factual information should be limited to public information. To facilitate preparation of its questionnaire, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on February 22, 2022, which is the next business day after 20 calendar days from the signature date of this notice.⁸ Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on March 4, 2022, which is 10 calendar days from the initial comment deadline.

Commerce requests that any factual information that parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party must contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service

⁶ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁷ *See* 19 CFR 351.102(b)(21) (defining "factual information").

⁸ The deadline for comments falls on February 21, 2022, which is a federal holiday. Commerce's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day (in this instance, February 22, 2022). *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005) (*Notice of Clarification*).

System (ACCESS), unless an exception applies.⁹ An electronically-filed document must be received successfully in its entirety by the time and date on which it is due. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹⁰

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of barium chloride to be reported in response to Commerce's AD questionnaire. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant costs of production accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) general product characteristics; and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe barium chloride, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

⁹ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.

¹⁰ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, all product characteristics comments must be filed by 5:00 p.m. ET on February 22, 2022, which is the next business day after 20 calendar days from the signature date of this notice.¹¹ Any rebuttal comments must be filed by 5:00 p.m. ET on March 4, 2022, which is 10 calendar days from the initial comment deadline. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of the AD investigation.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a

¹¹ The deadline for comments falls on February 21, 2022, which is a federal holiday. Commerce’s practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day (in this instance, February 22, 2022). *See Notice of Clarification.*

domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹² they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹³

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.¹⁴ Based on our analysis of the information submitted on the record, we have determined that barium chloride, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁵

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the "Scope of the Investigation," in the appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2021.¹⁶ The petitioner provided information from the ITC's fifth sunset review of

¹² See section 771(10) of the Act.

¹³ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

¹⁴ See General Issues Supplement at 2-3 and Exhibit GEN-3.

¹⁵ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, see Antidumping Duty Investigation Initiation Checklist: Barium Chloride from India (AD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Barium Chloride from India (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS.

¹⁶ See General Issues Supplement at 4.

barium chloride from the People's Republic of China, published in June 2021, in which the ITC found that Chemical Products Corporation was the only domestic producer of barium chloride; therefore, the Petition is supported by 100 percent of the U.S. industry.¹⁷ We relied on data provided by the petitioner for purposes of measuring industry support.¹⁸

Our review of the data provided in the Petition, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition. First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product, and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).¹⁹ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.²⁰ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.²¹ Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.²²

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject

¹⁷ See Petition at Volume I at I-2 through I-4; *see also* General Issues Supplement at 3-4 and Exhibit GEN-3 (containing *Barium Chloride from China*, Inv. No. 731-TA-149 (Fifth Review), USITC Pub. 5203 (June 2021) at 7).

¹⁸ See Petition at Volume I at I-2 through I-4; *see also* General Issues Supplement at 3-4 and Exhibit GEN-3. For further discussion, *see* AD Initiation Checklist at Attachment II.

¹⁹ See AD Initiation Checklist at Attachment II; *see also* section 732(c)(4)(D) of the Act.

²⁰ See AD Initiation Checklist at Attachment II.

²¹ *Id.*

²² *Id.*

merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²³

The petitioner contends that the industry's injured condition is illustrated by a significant volume of subject imports; increasing market share of subject imports; underselling and price depression and/or suppression; inventory levels; declines in production, shipments, and revenues; and lost sales and revenues.²⁴ We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁵

Allegation of Sales at LTFV

The following is a description of the allegation of sales at LTFV upon which Commerce based its decision to initiate this LTFV investigation of imports of barium chloride from India. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the AD Initiation Checklist.

U.S. Price

The petitioner based export price (EP) on the average unit value (AUV) of publicly available import data for barium chloride from India during the POI and made adjustments for foreign inland freight and foreign brokerage and handling to calculate a net ex-factory U.S. price.²⁶

Normal Value

The petitioner provided information indicating that the prices for barium chloride sold or offered for sale in India were below the cost of production (COP). Consequently, the petitioner

²³ See Petition at Volume I at I-10 and Exhibit I-9; *see also* General Issues Supplement at 5 and Exhibit GEN-4.

²⁴ See Petition at Volume I at I-7 through I-30 and Exhibits I-5 and I-8 through I-12; *see also* General Issues Supplement at 2-3, 5 and Exhibits GEN-2 and GEN-4.

²⁵ See AD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Barium Chloride from India (Attachment III).

²⁶ See AD Initiation Checklist.

based NV on constructed value (CV).²⁷ For further discussion of CV, *see* “Normal Value Based on Constructed Value” section below.²⁸

Normal Value Based on Constructed Value

As noted above, the petitioner provided information indicating that sales or offers for sale of barium chloride in India were made at prices below COP. Therefore, the petitioner calculated NV based on CV.²⁹ Pursuant to section 773(e) of the Act, the petitioner calculated CV as the sum of the cost of manufacturing; selling, general, and administrative expenses; financial expenses; and profit.³⁰

Fair Value Comparison

Based on the data provided by the petitioner, there is reason to believe that imports of barium chloride from India are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV based on CV in accordance with section 773 of the Act, the estimated dumping margin for barium chloride from India is 233.34 percent.³¹

Initiation of LTFV Investigation

Based upon the examination of the Petition and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating this LTFV investigation to determine whether imports of barium chloride from India are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Respondent Selection

²⁷ *See* AD Initiation Checklist.

²⁸ In accordance with section 773(b)(2) of the Act, for this investigation, Commerce will request information necessary to calculate the CV and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product.

²⁹ *See* AD Initiation Checklist.

³⁰ *Id.*

³¹ *See* AD Initiation Checklist for details of this margin calculation.

In the Petition, the petitioner named 22 companies in India as producers and/or exporters of barium chloride.³² Following standard practice in AD investigations involving a market economy country, in the event Commerce determines that the number of Indian exporters or producers is large such that Commerce cannot individually examine each company based upon its resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of barium chloride from India during the POI under the appropriate Harmonized Tariff Schedule of the United States subheading listed in the “Scope of the Investigation,” in the appendix.

On January 26, 2022, Commerce released CBP data on U.S. imports of barium chloride from India under administrative protective order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data and/or respondent selection must do so within three business days of the publication date of the notice of initiation of this investigation.³³ Comments on CBP data and respondent selection must be filed electronically using ACCESS. An electronically-filed document must be received successfully, in its entirety, via ACCESS no later than 5:00 p.m. ET on the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection. We intend to select respondents within 20 days of publication of this notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce’s website at <http://enforcement.trade.gov/apo>.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the government of India via ACCESS. To the

³² See Revised Exhibit I-4.

³³ See Memorandum, “Antidumping Duty Petition on Imports of Barium Chloride from India: Release of U.S. Customs and Border Protection Data,” dated January 26, 2022.

extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of barium chloride from India are materially injuring, or threatening material injury to, a U.S. industry.³⁴ A negative ITC determination will result in the investigation being terminated.³⁵ Otherwise, this AD investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)-(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted³⁶ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.³⁷ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the

³⁴ See section 733(a) of the Act.

³⁵ *Id.*

³⁶ See 19 CFR 351.301(b).

³⁷ See 19 CFR 351.301(b)(2).

type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Particular Market Situation Allegation

Section 773(e) of the Act addresses the concept of particular market situation (PMS) for purposes of CV, stating that “if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.” When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent’s initial section D questionnaire response.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from

multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; Commerce will grant untimely filed requests for the extension of time limits only in limited cases where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning factual information prior to submitting factual information in this investigation.³⁸

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.³⁹ Parties must use the certification formats provided in 19 CFR 351.303(g).⁴⁰ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in this investigation should ensure that they meet the requirements of 19 CFR 351.103(d) (e.g., by filing the required letter of appearance).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: February 1, 2022.

Lisa W. Wang,
Assistant Secretary
for Enforcement and Compliance.

³⁸ See 19 CFR 351.301; see also *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>.

³⁹ See section 782(b) of the Act.

⁴⁰ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

Appendix

Scope of the Investigation

The merchandise covered by this investigation is barium chloride, a chemical compound having the formulas BaCl_2 or $\text{BaCl}_2 \cdot 2\text{H}_2\text{O}$, currently classifiable under subheading 2827.39.4500 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

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